

**NATIONAL ORGANIC STANDARDS BOARD (NOSB)
DRAFT MEETING MINUTES
MONDAY, OCTOBER 15, 2001**

USDA/NATIONAL ORGANIC PROGRAM (NOP)
1400 Independence Avenue, S.W., South Building Cafeteria
Washington, DC

PLEASE NOTE: Pages Cited in this document are found in the meeting transcript.

ATTENDANCE RECORD

Members Present:

Owusu Bandele	Rosalie Koenig
Carolyn Brickey	Willie Lockeretz
Kim Burton	Jim Riddle
Dave Carter	Eric Sideman
Goldie Caughlan	George Siemon
Rebecca Goldberg	Bill Welsh
Steven Harper	Bob Anderson (former Board member)
Mark King	

Member Absent:

Marvin Hollen

National Organic Program (NOP) Staff:

Richard Mathews, Program Manager; Katherine Benham; Toni Strother; Robert Pooler; Mark Keating; Keith Jones; Beth Hayden; and Arthur Neal

Other Attendees:

A.J. Yates, Administrator, USDA Agricultural Marketing Service (AMS) (**pages 123–124**)
Dr. Jim Butler, USDA Deputy Under Secretary for Marketing and Regulatory Programs
Bill Hawks, USDA Under Secretary for Marketing and Regulatory Programs (**pages 119–123**)
Ken Clayton, Associate Administrator, AMS (**pages 118–119**)
Jim Jones, Environmental Protection Agency (EPA) (**pages 331–361**)
Michael Sligh, Rural Advancement Foundation International (former Board member) (**pages 124–144**)

Public comments below.

CALL TO ORDER

Carolyn Brickey, Chairperson of the National Organic Standards Board (Board) called the meeting to order on Monday, October 15, 2001, at 8:36 a.m., at the U.S. Department of

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Agriculture South Building Cafeteria, Washington, DC. She thanked people for attending and expressing their comments, and then moved to the next order of business, public comments.

PUBLIC COMMENT – MONDAY, OCTOBER 15, 2001

The following individuals presented public comments. Each person's oral comments are a part of the complete meeting transcript posted on the NOP website. The location within the transcript is noted in parentheses. Written comments are noted as attachments.

Hubert Caramon, D.V.M., Dairy Veterinarian, **(pages 7–11)**

Meredith Sandler, State of Alaska, **(pages 12–18 and Attach. 1)**

Tom Hutchinson, Organic Trade Association, **(pages 18–26 and Attach. 2)**

Dr. Anna Stamati, Republic of Moldova, **(pages 26–30 and Attach. 3)**

Floyd B. Meeker, Meeker Farms, Inc., **(pages 30–31)**

Bob Yanda, Midwestern Bio-Ag, Inc., **(pages 31–33)**

Gail Mason, AMS Poultry Programs **(page 34)**

Homer Lundberg, Lundberg Family Farms, **(pages 34–42)**

Gordon Brewster, Lundberg Family Farms, **(pages 42–51 and Attach. 4)**

Gary Simlones, California Organic Rice Growers/Lundberg Family Farms, **(pages 51–57 and Attach. 4)**

Bryce Lundberg, Lundberg Family Farms, **(pages 58–65 and Attach. 4)**

Buzz Klopp, D.V.M., Townsend, Inc – Organic, **(pages 65–70 and Attach. 5)**

Matt Moudy, Seeds of Change, **(pages 70–72 and Attach. 6)**

Dr. Kere Kemp, Alicide Corporation, **(pages 72–77 and Attach. 7)**

Diane Goodman, Industry Consultant, on behalf of Dick Kringle, **(pages 77–88 and Attach. 8)**

Robin Downey, Pacific Coast Shellfish Growers Assoc., **(pages 89–91)**

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Susan Boa, Seafood Choices Alliance, **(pages 91–93)**

Tina Ellor, on behalf of Organic Working Group for the American Mushroom Inst.,

(pages 93–97 and Attach. 9)

Lynn Coody, Organic Ag Systems, **(pages 97–103 and Attach. 10)**

Kathleen Downey, Organic Materials Review Institute (OMRI), **(pages 103–105)**

Jim Pierce, Organic Valley, **(pages 105–117)**

Michael Sligh, former Board chairperson, **(pages 125–141)**

David Engel, MOSA, **(pages 142–147)**

Nancy Cook, Pet Food Institute, **(pages 147–151)**

Shannon Peak, NOVUS International, Inc., **(pages 151–154 and Attach. 11)**

Cameron Smoak, Georgia Department of Agriculture, **(pages 154–159 and Attach. 12)**

D.L. Wicker, Fiddle Farms, **(pages 159–165 and Attach. 12)**

Steven Gray, Springer Mountain Farms, **(pages 165–173 and Attach. 12)**

Les Ekland, WSDA, **(pages 173–180)**

Diane Goodman on behalf of Billy Robinson, President of Nature's Best Organic Feeds,

(pages 180–183 and Attach. 13)

George Lockwood **(pages 183–187)**

Marty Mesh, Florida Organic Growers, **(pages 187–193)**

Bill Wolf, Wolf & Associates, **(page 193)**

Diane Bowen, Organic Crop Improvement Assoc. (OCIA) International, **(pages 193–196)**

Bob Durst, Simple Organic Solutions, **(pages 196–199)**

Dan Herman, National Fisheries Institute (NFI), **(pages 200–205)**

Dirk Ave **(Attach. 14)**

Cayce Warf **(Attach. 15)**

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United Egg Producers (**Attach. 16**)

Gary Fornshell (**Attach. 17**)

Bob McCoy (**Attach. 18**)

Morris Preston (**Attachment 19**)

Trudy Finn, J.R. Woods (**Attachment 20**)

12:29 p.m. End of public comment

Afternoon Session – 1:41 p.m.

REMARKS FROM THE BOARD CHAIR AND AGENDA OVERVIEW, Carolyn Brickey

After welcoming people back from lunch and thanking the morning commenters and the Board, Chairperson Brickey gave an overview of the meeting agenda for the rest of the afternoon, as well as the agendas for October 16 and 17.

APPROVAL OF BOARD MINUTES FROM JUNE 6, 2001, MEETING, Jim Riddle

Mr. Riddle advised the Board that there had been some revisions to the minutes and called for additional changes. After noting a spelling correction to Ms. Goldberg's name, Mr. Riddle motioned the minutes be adopted, Mr. Lockeretz seconded the motion, and the minutes were adopted unanimously.

Mr. Riddle stated that the Executive Committee minutes have been distributed to the Board and are posted to the NOP Web site. He added that minutes of monthly Board teleconferences are also posted to the Web site, approximately 2 weeks after each meeting. He urged faster turnaround time for Board minutes and asked that meeting agendas include committee workplan reports and related minutes. (**pages 206–216**)

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NOP UPDATE AND DISCUSSION, *Richard Mathews, Program Manager*

Administrative Changes

Mr. Mathews announced that Demaris Wilson will work with the NOP staff as a writer-editor for 1 year and that he is working to bring on board permanently temporary employee Katherine Benham. She will work on NOSB activities and meetings. He is also working to bring temporary secretary Lonnie Burch on board permanently.

Accreditation and NOSB Nominations

Mr. Mathews reported that there are 16 applications for accreditation--six domestic, 10 international.

He said that there are 27 nominations/recommendations for the five Board positions, with several people being nominated for more than one position: consumer public interest (7); producer (13); handler (8); scientist (8); and environmentalists (2). Nominations closed on October 11, 2001.

TAP Reviews

Mr. Mathews said NOP has two new vendors to provide TAP reviews and that these vendors were contracted through standard Government procedures. The new Cal-Davis and Virginia Tech contracts run through Sept. 30, 2002. The current contract with OMRI, which was scheduled to expire on Sept. 30, 2001, has been extended until Sept. 30, 2002.

Accreditation

NOP staff member Beth Hayden described the accreditation procedural packet containing an auditors' checklist which will be posted to the website to assist those applying for accreditation. Mr. Mathews stated that the application form may be revised, and members of the NOP staff would review other components of the procedural packet. Mr. Mathews

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summarized by saying that we have checklists, we're looking at applicants, we're three-quarters finished with developing accreditation procedures, and we've completed the GAP analysis.

Crops and Livestock Cooperative Agreement

Mr. Mathews announced that NOP entered into a cooperative agreement with the National Center for Appropriate Technology to develop crop and livestock checklists to assist producers and certifying agents. The target date for completion is February 7, 2002.

Upcoming Rulemakings

After a discussion among Richard Mathews, Mark Keating and Jim Riddle, it was made clear that a technical corrections docket has been drafted and is under internal review; reasonable security requires rulemaking and a docket is being drafted; and it is still undecided whether or not commercial availability will require rulemaking. Mr. Mathews also said that of course, until the reasonable security rulemaking is finished, NOP will not require accreditation applicants to follow procedures, which are not yet in place.

Mr. Mathews stated that he prefers separate rulemakings for mushrooms, greenhouse, and apiculture, so that controversy regarding any one of these issues will not slow down the clearance process for all of them. After further discussion, which included Mr. Lockeretz, Mr. Mathews said not to expect completed rulemaking on greenhouse and mushrooms before October 2002.

The NOP is waiting for guidance from the Board regarding rulemaking for aquatic animals. After a further discussion on greenhouse, apiculture, and mushroom standards that included Mr. Mathews, Mr. Bandele, Mr. King, Mr. Harper, Ms. Brickey, and Mr. Riddle, Mr. Mathews suggested that a recommendation by the Board regarding the organic status of products from greenhouse, apiculture and mushroom operations after Oct. 21, 2002, could speed up a ruling by OGC on this issue.

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Transitioning

The Board then took up questions relating to “transition.” Mr. Grimes associated announcing the first round of accredited certifying agents in April 2002 with partial implementation of the program. Mr. Mathews explained that that really wasn’t the case; that all certifiers must be accredited, and all operations must be certified by October 21, 2002. However, in response to a question from Mr. Sideman, Mr. Mathews explained that upon accreditation, the certifying agent must hold all of his/her new clients to the NOP standards. Old clients will be grandfathered in and will have until their annual certification renewal date to be brought into total compliance with the NOP standards.

In response to a question from Mr. Carter, Mr. Mathews confirmed that USDA-approved State programs that just certify crop operations may continue to do so until the livestock portion of their certification program is up and running. **(pages 216–252)**

PRESENTATION OF COMMITTEE DISCUSSION AND NOSB ACTION ITEMS

Livestock Issues – “Access to Pasture” Recommendation, *Eric Sideman*

Mr. Sideman presented the Livestock Committee’s recommendation on “access to pasture,” which he pointed out was not a change to the rule, but clarification. The only change made to the recommendation previously posted on the website was to reduce the final stage of finishing time for beef from 120 days to 90 days.

After discussion involving Mr. Sideman, Ms. Burton, and Ms. Shea, it was established that the Organic Trade Association comments were received on time and taken into account.

Mr. Sideman pointed out that essentially the recommendations give more detailed guidance on access to pasture, including pasture requirements for beef and dairy producing

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cows and that the Livestock Committee will work on guidance for sheep, goats and other ruminants.

There was discussion among Mr. Sideman, Mr. Siemon, Ms. Brickey, Mr. Harper, Mr. Koenig, Mr. Riddle, and Ms. Goodman relating to comments received on how much and the quality of pasture an operation must have in order to be in compliance with the NOP regulations. They discussed how much of this should be left up to the certifier. And they discussed what kinds of physical and financial hardships may be caused to producers coming into compliance with the access to pasture standard. **(pages 253 -275)**

Livestock Issues – “Antibiotics in Vaccines and Semen” Recommendation, Eric Sideman

The Board discussed various implications of antimicrobials used as preservatives in vaccines and whether or not these would be prohibited as “antibiotics” under the NOP regulations. It was decided that the Livestock Committee’s recommendation is that vaccines and semen that have antibiotics and antimicrobials added for the sole purpose of preservation of the vaccine or semen be permitted in organic livestock production systems. The Board agreed to vote on this on Wednesday, and leave it up to the NOP staff to find out the best way to handle the results of the vote—guidance or rulemaking. **(pages 275-283)**

Livestock Issues –Apiculture Task Force Recommendation, Jim Riddle

Mr. Riddle advised the Board that the apiculture standard is presented in draft regulatory text. He goes over the main points, section by section, beginning with the definition of apiculture and defining the forage zone. He says the initial recommendation on transition has been changed to be brought more in line with IFOAM and EU standards. The new

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recommendation says there must be 270 days of organic management in the transition process—up from the original 60 days.

In talking about the organic apiculture plan, Mr. Riddle touched again on the forage zone (a generally agreed-upon 4 miles), adequacy of forage, and contamination risk. The discussion moved on to approved hive materials, preventive health care practices, and a materials list. Mr. Riddle also reported that the Processing Committee felt honey processing was pretty well covered under the general handling standards, except more thought should be given on how to capture the issue of organic raw honey. The processing committee's thoughts so far are that the producer must not heat raw honey, filter it using filter elements smaller than 200 microns, or add diatomaceous earth to separate seed crystals from the honey. This (issue of raw honey) would be the only amendment to the recommendations except for addressing contamination risk in the forage zone, action level, and the synthetic status of vegetable shortening in the Processing Committee. **(pages 283-305)**

Livestock Issues – “Aquatic Species” Recommendation, Jim Riddle

Mr. Riddle stated that the next item “Aquaculture, aquatic species” would be discussed on Tuesday morning.

Livestock Issues – “Pet Food Labeling” Discussion, Jim Riddle

Mr. Riddle deferred to Mr. Keating to talk about pet food. According to Mr. Keating, the American Association of Feed Control Officials indicates they would like a solution that works for both livestock and pets. The Pet Food Institute is waiting for NOP to begin a dialogue on the issue, and Mr. Keating recommends that the new Livestock Committee send the Pet Food Institute a letter.

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Mr. Mathews said we are still waiting for a clear answer from OGC on whether pet food is already covered in the regulations. NOP is inclined to say that it is covered, and the question is should pet food have a separate labeling system. Mr. Sideman wraps up the discussion by saying that after a Wednesday discussion, the Board would agree that pet food issues be posted on the web leading to a vote at the next Board meeting. **(pages 305–314)**

Materials Issues – Materials Petition Process and Timelines, Decision Process for Reviewing/Approving a Material, Kim Burton, Chair

Ms. Burton described the petition process and requested the approximately 90-day process be extended to 145 days to allow the Committee more time to review petitions and TAP reviews, and the TAP reviewer more time to make the TAP review. The TAP reviews are posted on the web 30 days prior to NOSB meetings for public view and the NOSB has this 30 days to gather more information, if necessary.

In response to a question from Mr. Lockeretz, Ms Burton said the Board would further discuss streamlining the petition process. Mr. Mathews added that once the Board has made a recommendation on a material, rulemaking must occur, and that all materials recommended thus far will be included in one docket. The worst-case scenario is that it would take another 18 months before a new material could appear on the National List.

Report on New Petitions and TAP Review Process

Ms. Burton stated that the Committee will make recommendations on 13 materials to the Board tomorrow. Five materials have been forwarded for TAP reviews: calcium oxide, calcium hydroxide, sodium Chilean nitrate, 1-4-dimethylnaphthalene, and gelatin. One petition is on hold by the request of the petitioner: dimethylpolysiloxane. Six new petitions have been received in the NOP office, five for addition to National List: dewaxed flake shellac, calcium stearate, Spinosad, potassium carbonate, calcium sulfate, and Konjac flour. One of the new petitions

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requests that cornstarch be removed from the National List. A new petition for addition was added before the meeting, sodium chloride. **(pages 317 – 330)**

PRESENTATIONS

Discussion of Inert Ingredients and Progress On Organic Product Label Proposal

Jim Jones, Deputy Director of Pesticide Program, Environmental Protection Agency (EPA)

Pesticide Labeling

EPA put out for comment a notice to allow manufacturers of pesticides used in organic production to put a statement on their product label that says roughly, “the ingredients in this product meet the requirements of USDA’s National Organic Program.” In order to use this statement, certain criteria must be met: ingredients must be allowed according to NOP regulations’ National List and EPA’s List IV. Sixteen comments were received, and according to Mr. Jones, none had significant policy information. Some were strongly in favor of the label statement and others thought EPA should stay out of the organic issue all together.

Mr. Jones described a need for a resolution process, including AMS/NOP, to address amendments, to make sure EPA doesn’t allow the label on products that don’t actually meet NOP requirements. Should the point of contact be the Board? After discussion including Mr. Riddle, Ms Burton, and Mr. Mathews, it was decided consultation would begin with NOP then on to the Board if necessary.

After rejecting an idea that EPA should save up its questions and ask about them in a group, Mr. Jones urged that the process not be over-designed and that a fax or phone call should resolve an issue. It was decided that an MOU should be developed between USDA and EPA.

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When EPA starts accepting petitions and evaluating them, they'll come to the Board with a status report.

Inerts

There are a significant number of products currently being used in organic production, where the active ingredients meet the NOP requirements, but the inert ingredients don't. The test for inerts is that they must be on EPA List IV. EPA has been looking at their List III inerts to see if any could be moved to List IV. OMRI has been providing expertise to them on this.

EPA has been "triaging" around 40 of these inerts. These 40 are divided into groups A, B, C, D and E. Mr. (Jim) Jones says he is optimistic that a decision can be made on groups A and B by October 2002, and they have a decent chance of coming to a decision on group C. It is unlikely that a decision will be made on groups D and E.

Mr. Jones suggested that interested businesses would like to know if inerts they use fall into groups D and E, so they can make appropriate business decisions. One of the Board members (identified in transcript as "Participant") agreed to notify affected manufacturers.

Mr. Jones also said he would like help from the Board in sorting the inerts in group C by importance, and Ms Brickey agreed to get back to him in a month with priority designations.

Mr. Sideman asked if EPA contacts manufacturers who may be mislabeling their product using terms like "natural" or "all natural" or "organic." Mr. Jones replied that kind of enforcement is usually a low priority. Ms Brickey suggested targeting three or four of these products for enforcement. **(pages 330-361)**

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Update on Trade Issues Foreign Agriculture Services (FAS), *Keith Jones, NOP*

The NOP's Keith Jones introduced Kelly Strzelecki from USDA's Foreign Agricultural Service. Ms. Strzelecki described the role of FAS's Commodity Group as relates to the organic industry. She stated that she worked closely with the Organic Trade Association in FAS's Market Access Program, and that she puts out a monthly newsletter, "Organic Perspectives," a summary of organic-related reports by FAS overseas attaches.

Ms. Strzelecki introduced Mark Mannis, part of FAS's Trade Policy Group. Mr. Mannis announced a meeting with Japan on November 5 to develop an organic trade agreement to replace the interim agreement, expiring March 2002. Issues to be discussed at the meeting include: (1) how certifiers are identified and who has the responsibility to identify them--in Japan's present proposal it could take 6 months to approve a certifier; (2) where labels must be affixed—Japan wants them affixed in Japan; and (3) Japan wants certificates to accompany each shipment of organic ag products into Japan. There also is the question of whether or not the agreement will apply to all products, which FAS prefers. Mr. Mannis called on the Board to make their opinions known to USDA before the meeting, perhaps via conference call.

Mr. Riddle suggested a re-invigoration of the Board's International Committee when the new members have been named.

Mr. Mannis then moved on to talk about a potential U.S. – EU agreement, which he described as more complicated and challenging than an agreement with Japan, in part because it will be a 2-way agreement. Europe lacks uniformity regarding how organic products are treated at points of entry and there are specific problems with Germany. Problems with EU include which equivalency option will EU countries choose? Which options are better for the U.S.?

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Regarding equivalency in general, Mr. Mannis said USDA is considering a public meeting to get input. What does equivalency mean operationally? How do you actually implement an agreement? What's the process? What are the responsibilities of the importing country? Exporting country?

Mr. Mannis then introduced FAS's Audrey Talley, whose office monitors other countries notifications of rules that could impact trade. At a recent Technical Barriers to the Trade Agreement (TBT) committee meeting in Geneva, Ms. Talley said the U.S. looked at issues with the EU, one of which dealt with the EU's proposal on organic import regulations.

On February 6, the EU had notified the World Trade Organization that it planned to issue border controls that included certification requirements. The U.S. comments on this proposal questioned the EU's uniformity of process and enforcement of this plan, but U.S. comments were not considered. The border controls are set to go into operation in July 2002. The U.S. has requested more information on implementation.

Moving to another issue, Ms Talley stated that under an international agreement through the TBT committee her office requested copies of current equivalency agreements between Switzerland, Australia, Argentina, Czech Republic, Hungary and Israel, but received only two agreements—from Australia and Switzerland. Her office is still pursuing the rest.

Keith Jones stated that NOP has completed a cursory side-by-side with the EU and contracted with OMRI to do some work on the materials review aspect. He added he hoped to enter into discussion with the EU by early 2002. In response to a question from Mr. Lockeretz, Keith Jones explained that after much discussion, USDA and USTR did not think the NOP \$5000 exemption factor would be a barrier to trade with the EU. **(pages 364-388)**

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Processing Issues – Discuss Guidelines for Determining What Processing Technologies Should Be Reviewed by the Board Steven Harper, Chair

Mr. Harper stated that the Processing Committee has put together a set of draft guidelines discussing what processing technologies should be reviewed by the Board. The guidelines are broken down into 5 categories: processes that are strictly mechanical or biological; processes other than biological or mechanical; processes in which non-agricultural substances (other than those allowed in 205.605) are components of the material and introduced into food; processes in which specific chemical components of the food are selectively removed; and any other processes not covered above. (pages 389-396)

Crops Issues – Reports on Composting, Compost Tea and Vermiculture, Status of Heated, Pathogen-Free Manure Products; Vote on Greenhouse and Mushroom Recommendations; and Recommendation for Certification of Transitional Operations and Labeling of Transitional Products Owusu Bandele, Chair

Mr. Bandele started his report with recommended greenhouse guidance, stating that the report on the web differs from the latest report in these aspects: a provision on separate watering systems for conventional and organic production was added; allowing an exemption from the crop rotation and crop cover requirements for container plants was added; tomato growers were allowed some relief regarding crop rotation; and a provision for preventing contamination of organic crops by GMO crops was added.

Mr. Riddle suggested the following changes: use the term “annual seedlings” instead of “seedlings;” use the term “planting stock” instead of “plant stock;” and fix a regulation reference error. He also recommended removing item G, to which Ms Brickey and Mr. Mathews agreed.

Mr. Bandele began a discussion on transitional labeling ending with Ms Brickey’s conclusion that there are 3 different concepts being discussed, all of which needed more clarity

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brought to them in order to continue the discussion. Does transitional have to lead to certified and when? What standards must there be for transitional? Does NOP have any jurisdiction over any label other than organic? **(pages 396-418)**

MEETING AJOURNED AT 6:04 P.M.

Chair Brickey adjourned the meeting until 8:30 a.m., on Tuesday, October 16, 2001.